

Gun Lawyer -- Episode 121 Transcript

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SPEAKERS

Evan Nappen, Speaker 3

Evan Nappen 00:22

Hello, I'm Evan Nappen, and welcome to Gun Lawyer. Well guess what? Ammunition registration has come to New Jersey. That's right, the law was passed a number of months ago, but now it is up and running. So, when you go to buy handgun ammunition in New Jersey, you're going to be charged a transaction fee for one box of 20 twos of \$1.50, and you're going to get databased with your purchase and your personal information. Let me tell you about exactly how this works. By the way, the sponsor of our show is the Association of New Jersey Rifle & Pistol Clubs, anjrpc.org. They are the foremost defender of gun rights in New Jersey, and they are the NRA state affiliate. They are working full-time trying to protect our rights and fight in the toughest anti-gun jurisdiction there is and that is New Jersey.

Evan Nappen 01:41

Now with this new law, when you go to the dealer you buy, like I said, even one box of .22s, the dealer is required to enter you into an electronic ammunition purchase database. Now this law itself can be found in the Criminal Code in New Jersey under NJS 2C:58-3.3a. This is specifically subsection a. What it mandates is the electronic reporting and record of transaction for sale, transfer, assignment, or disposition of handgun ammunition. This is the law. The State Police were required under this law to develop a program for retail dealers of handgun ammunition. So, that means they got to be a licensed retail dealer in New Jersey, because that's what a retail dealer means under the law, to electronically report a record of any transaction involving sale, transfer, assignment, or disposition of handgun ammunition and the information related to that transaction. Now the law specifically says that the information shall include the date of the transaction, the name of the manufacturer, the caliber or gauge, gauge, that's interesting, gauge, what handgun firing shotgun shells and I mean gauge not 410. That's not a gauge. I missed the last 20-gauge, 12 gauge or 10 gauge handgun that was for sale. But anyway, it asks to record the gauge, or caliber and the quantity of ammunition sold or transferred. It needs to have the name, address, and date of birth of the purchaser; the identification used to establish the identity (of the purchaser) and any other information the superintendent may require.

Evan Nappen 03:53

So, what did the New Jersey State Police actually do with regard to this? Well, they created this electronic database that's connected to the New Jersey NIC system. When a dealer is going to make the sale, they go on the web interface, and they click on. The first thing it asks is to put in your name and it does have a date of birth. Then it asks for the SBI number. Now where's the SBI number? Well,

that's on your Firearms ID Card. I guess you better have a Firearms ID Card or you're not going to know your SBI number. If you have some an old Firearms ID Card, they didn't even put SBI numbers on the old ones. Later, they finally started using them. Then it needs your residential address information, which is your street address and city and state and zip code. So, you're going to plug all that in and that gets you registered in the database.

Evan Nappen 05:00

Then the ammunition information is as follows. The name of the manufacturer has to be entered by the dealer. Then it says ammunition type. Now this is interesting because, of course, it's handgun (ammunition), but there's a pull-down menu. Since only handgun ammunition is required to be registered, why do they have type for registration? Think about that. In other words, you know that their intention is to make all ammunition registered at one point. But for now, it's handgun. Then it has the caliber, and it asks the quantity. The quantity has to be the number of rounds, folks. So, it's not one box. It's 50 rounds or 100 rounds. Then it also asks something that's very interesting, because it's not in the law that this needed to be asked. But they ask whether it's hollow nose ammunition or not. They are distinguishing whether individuals have purchased hollow nose ammo or not. Now why they asked for that? I don't know. It's not required under the statute. Hollow nose ammunition can lawfully be purchased from the dealer and can be brought to the range or brought to your home. You're allowed to possess it there. So, why are they distinguishing whether it's hollow nose or not? I don't know. But all that's being databased on you. Then you're being charged the extra \$1.50.

Evan Nappen 06:43

So, this database simply databases you as an ammunition buyer, and the ammunition you purchase. But ammunition itself isn't serial numbered or registered. And here's the other thing about ammunition, it gets shot. So, if you use your ammunition, you may have been recorded for purchasing, but it doesn't mean you still have it or nor would still have it. Because it's like recording gasoline purchase for your car. Then you use it, and you buy more. I mean, it's pretty ridiculous. Think about this database, all it is is intrusive. All it is is a database that you know is going to be used for some bad purpose eventually. To go at our rights. To be supplied in searches or whatever. The person is an ammunition purchaser. To look at quantities purchased over a time period. Yet, nothing about this exercise here, nothing, will have anything to do with fighting crime, with solving crime, with stopping crime. It has nothing whatsoever to do with criminals. Nothing. It is just databasing with intrusive information and charging a fee, of course, to create this database on law-abiding citizens. So that the government knows that you're an ammo buyer. That's it. It does nothing to actually address anything having to do with the criminal misuse of firearms, or the stopping of crime. It is ridiculous. Yet here we are having now to do this.

Evan Nappen 08:49

Folks, there's another element to this that you need to be very much aware of because not only is it creating this database, and creating, if you will a beta of the database. In other words, this is just the first step. Because you know, they're going to want to increase the information that they're requesting. They're going to probably have limitations at some point on the amount of ammunition individuals can buy. They're going to look at the amount of ammo you buy, maybe use it to judge whether you should

have another permit or not, or whether you're hoarding ammunition. Who knows what idiotic theories they'll come up with to use this and abuse it.

Evan Nappen 09:36

But also, in this law and also this will come up in this registration is the following requirement. Listen to this, folks. Any transaction involving the sale, transfer, assignment, or disposition of 2,000 or more rounds of handgun ammunition and the information related to that transaction shall be immediately reported to the superintendent. In other words, if you purchase more than 2,000 rounds in one transaction, you're getting investigated by the State Police for your purchase. So, folks, if you want to buy 4 bricks of .22s, you're asking to be immediately reported to the State Police for this ammunition transfer to be investigated by them for this quantity purchase. That too, is in law. So, you need to be aware of this. This only applies, of course, to the purchase of ammunition in New Jersey from retail dealers.

Evan Nappen 10:55

Now, the problem is, it's essentially going to close out online purchasing of ammunition from out of state. Because unless they're a retail dealer, that person under New Jersey law, not an FFL under federal law, but a New Jersey retail dealer, they are not going to have access to the New Jersey computerized NIC system, which gives access to the database ammunition purchase requirement that has to be fulfilled for them to sell in New Jersey to New Jersey, or transfer to that New Jersey resident. So, I don't see how any of the companies can lawfully sell handgun ammunition, online or mail order anymore, even though under federal law, it's legal. But New Jersey I think is blocking it with this. Unless they're going to allow if any company is even willing to do it, to become a New Jersey retail dealer outside the state of New Jersey, so that they can be licensed and regulated by the state of New Jersey, so they can have a retail dealer license, allowing them to sell ammunition so they can record the purchases, I doubt they're going to go and do that. So, that's a problematic issue.

Evan Nappen 12:24

Additionally, here, it talks about the retail dealers of handgun ammunition are required to do this. Now there is another law that had been on the books for a longer time than this, substantially longer, that required for the sale of handgun ammunition that a person have ID. This law came into effect in 2007, whereas this new law now is 2022. But since 2007, there has been a law in New Jersey that before someone can purchase handgun ammunition, they have to produce an (valid Firearms) ID Card or a Pistol Purchase Permit or a Carry License along with a current driver's license. So, you have a dual identification requirement for the purchase of ammunition with your gun license and your driver's license or other current government ID. That was one thing where the proof of your ID and then you could buy ammo, but it wasn't registered. There was no fee. There was no electronic (registration). It was just identification purposes for that.

Evan Nappen 13:59

In that law, there was an exemption, an exemption that says nothing shall be construed to prohibit the de minimis amount of ammo, handgun ammo, at a firearms range. So, if you're just selling ammunition for use at the gun range, you didn't have to do this. They exempted it. Or at a rifle and pistol club etc. However, that exemption was on the old law, which is in a different section. They did not put that

exemption into the electronic database law. There is no de minimis range or pistol club exemption for handgun ammunition transfer there. So, it appears that even when you go to the range, you're going to still have to do this intrusive databasing for your handgun purchase and pay the fee. I mean handgun ammunition purchase, and pay the fee for that ammunition purchase. Even though you're just using it at the range, which becomes more of a pain in the neck, of course for the ranges. Now, unless the State Police or somebody issues some guidance saying no, the de minimis transfer at a range just like the old law still applies to the electronic. But technically that law, that electronic registration law, did not exempt like the other law did. So, when we come back, I have some great letters to Gun Lawyer with some excellent questions.

Speaker 3 15:44

For over 30 years, Attorney Evan Nappen has seen what rotten laws do to good people. That's why he's dedicated his life to fighting for the rights of America's gun owners. A fearsome courtroom litigator fighting for rights, justice, and freedom. An unrelenting gun rights spokesman tearing away at anti-gun propaganda to expose the truth. Author of six best-selling books on gun rights including Nappen on Gun Law, a bright orange gun law Bible that sits atop the desk and virtually every lawyer, police chief, firearms dealer, and savvy gun owner. That's what made Evan Nappen America's Gun Lawyer. Gun laws are designed to make you a criminal. Don't become the innocent victim of a vicious anti-gun legal system. This is the guy you want on your side. Keep his name and number in your wallet and hope you never have to use it. But if you live, work, or travel with a firearm, the deck is already stacked against you. You can find him on the web at EvanNappen.com or follow the link on the Gun Lawyer resource page. Evan Nappen - America's Gun Lawyer.

Speaker 3 16:58

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Evan Nappen 17:13

Welcome back to Gun Lawyer. I'm Evan Nappen, and I appreciate your listening to the Gun Lawyer podcast very, very much. It's an opportunity for me to help spread the word and the news about various gun laws and things taking place that the mainstream media does not like to see publicized. It's a great way to get the word out to learn about these things and the inside information. I am particularly proud that our sponsor, the Association of New Jersey Rifle & Pistol Clubs, is fighting for our rights every day. They have a full-time paid lobbyist in Trenton. They are currently litigating on multiple fronts in federal court and state court on Second Amendment issues. Just recently, there has been action with the Association's case in Association versus Plotkin where both the magazine ban and the assault firearm ban are being challenged in federal court for constitutionality under the Second Amendment. The Association is in litigation over the "Carry Killer, Anti-Civil Rights" bill right now as we speak. They've succeeded in getting injunctive relief in the form of a TRO. There is a lot more to come with the preliminary injunction hearing on that same legal action, and they're making great progress there. They're also involved in a state challenge actually in a case called MU, which is a case with my firm challenging the constitutionality of the licensing disqualifier for "not in the interest of public health, safety, welfare", and its unconstitutional nature that leaves it vague, subjective, and a violation, of course, of our Second Amendment rights. The Association is there helping to fight these cases and to

defend our rights in the toughest environment in the United States. That is the state of New Jersey. So please join the Association. Make sure you're a member. Go to anjrpc.org and join your state association.

Evan Nappen 19:54

Now I have a letter here from Robert and what Robert says is regarding NJ CCW liability insurance coverage. Now CCW seems to be a term for "Concealed Carry Weapon" that is out there in the ether that gun people use. But in New Jersey, we don't have a CCW. What we have is a PTC, a Permit To Carry. Now it so happens that our Permit To Carry does require that it be concealed. But it's not a weapon permit. It's a handgun permit. Some states have Concealed Weapon Permits that go beyond simply firearms. New Jersey limits it strictly to handguns. It's a Permit To Carry, so we prefer to use PTC. But I totally understand what Robert is asking about, and I'm sure you do, too. And that's regarding NJ CCW liability insurance and says Evan, your podcasts are invaluable. I've taken one of your seminars a few years ago, and you made a lot of confusing laws extremely understandable. Well, he must have caught me on a good day then. Let me tell you. My question is I'm having a difficult time securing liability insurance for my NJ CCW. It seems the standard insurance companies, USCCA, CCWSAFE, etc. are not offering in New Jersey. Do you know of any insurance companies for NJ?

Evan Nappen 21:32

Thank you, Bob. Well, here's the deal, Bob. You're right, and this is quite an interesting situation. You see, under Murphy's Carry Killer Anti-Civil Rights bill, one of the things that he put in there was a requirement to have insurance if you have a permit to carry. Now, this does not kick in until July (2023). So, it does not become effective until July. If you have a carry permit, now, you do not need to get this insurance. But I understand that folks want to be pre-emptive. They want to get the insurance before, and frankly, having insurance itself isn't a bad idea. There's nothing wrong with the idea of having insurance. It's a good idea. So, in that regard, it's fine. But what really isn't fine is when it's mandated by the Government, which is what the Carry Killer Anti-Civil Rights bill does. It requires us to have certain limits and have certain structure to what they are mandated to insure. And that's where the problem comes in. It is my understanding that there is no major insurance company that can actually write the insurance, the way the insurance companies are interpreting this law that New Jersey requires. I know that U.S. Law Shield, for which I'm an Independent Program Attorney, I know that US Law Shield has looked into this as well. None of the major insurance companies can do it because they believe that it mandates that insurers ensure intentional acts. And insurance does not apply to intentional acts. Insurance is for accidents, for negligence; not for something intentionally done.

Evan Nappen 23:36

What makes this even more ironic and crazy is that a number of years ago, Governor Murphy made a big hoopla from his office, announcing that he's prohibiting the insurance that gun owners wanted to get from USCCA, Carry Guard, etc. This was simply insurance that covered you if you needed defense in a legal action, because you used your gun in self-defense. It was not liability-type insurance where there were judgments or things that could get paid, but it was a legal services type of insurance. Murphy banned these from New Jersey by Executive Order and called them "murder insurance". He said, we're not going to have murder insurance in New Jersey. Now it so happens that U.S. Law Shield was not insurance but a member organization. Not an insurance company type deal. U.S. Law Shield had

already gotten approval through the banking and insurance commission as not being insurance, and they were allowed to still continue to operate because they weren't insurance. But the other companies were forced to leave because Murphy banned murder insurance, which of course, none of it was murder insurance.

Evan Nappen 25:15

But now, lo and behold, he signs his Carry Killer Anti-Civil Rights bill, and in it is an insurance requirement that mandates that you have insurance that covers intentional acts. In other words, he's mandating that you get actual murder insurance now. That's what he's looking to have you insured for - actual murder, which is not the case for what insurance companies would normally ever insure. They don't insure nor sell, "murder insurance", intentional acts. This is something that are exclusions in insurance policies. So, unless something gets worked out with the Insurance Commission, the insurance companies, and it gets figured out what type of insurance can actually be made by these companies that can actually fulfill whatever this law is requiring, we're not going to see any insurance. And that's why there is no insurance available now that actually meets the bill. Now, I have heard that there are some companies claiming this, but in fact, they have exclusions and nothing in writing that says this, in fact, covers it, because I don't believe it does. I know that these other companies have been trying to provide a product to meet it and can't. So, if anyone claims to have such a product, I'd be highly skeptical. Because these other major companies that deal specifically with gun owners cannot get this product out there. So, beware. It is something that is fraught with peril, shall we say.

Evan Nappen 27:02

Now, there is one good news about and that is the Association of New Jersey Rifle & Pistol Clubs in their litigation, in their challenge to the Carry Killer, Anti-Civil Rights bill, is challenging the provision that mandates the insurance. So, we will have a preliminary injunctive hearing prior, well prior, to July, where we may, in fact, see that the requirement for insurance is found to be unconstitutional anyway. So, don't go fretting about this just yet. Because it doesn't take effect till July, and I believe there's a very reasonable chance of success here for us in defeating this requirement. Because think about it, they're requiring insurance. The Government is mandating insurance for you to exercise a right, a right equivalent to the First Amendment rights, such as freedom of speech and freedom of religion. Do you think it would be okay if the government mandated that you have insurance before you pray in church? Or that you need to have insurance before you do a letter to the editor? Do you think that's okay? No, of course it isn't. The Second Amendment right to keep and bear arms is in the same level as a First Amendment rights as per Justice Thomas in the Bruen decision. Therefore, I think there's a good chance that the insurance mandate will not be upheld. So, let's see what happens. But until then, getting some insurance that meets these criteria is highly unlikely. But let's just say we do win as I suspect we will. It's not a terrible idea to get insurance, just generally speaking, for firearm carry, etc. Those products I believe will be out there that you could get that just are not "murder insurance", but actual insurance for the law-abiding carrier of a handgun.

Evan Nappen 29:22

Okay, I got another great letter here. This letter is from Yuri, and Yuri says: Dear Mr. Nappen, I have a question about how to handle a traffic stop by police when traveling between the gun club and home. This is not a CCW question. Here we go that CCW stuff again, but that's okay. Just an FPIC holder

driving to and from his gun club. I'm always careful when driving during these trips. Rifles and pistols are in a locked case. Ammo is in a separate locked case. No hollow point ammo of any kind. Targets and gun cases are covered with blankets in a minivan. That's good because plain view of a gun case is probable cause for a search. You want to keep your gun cases covered. Besides the commonsense things to do during a traffic stop, front windows down, engines off, and hands on the wheel. Do I inform the police officer that I'm a New Jersey FPIC holder, that I have guns in my van, and I'm traveling to the gun club without any route deviations? I'm a great fan of yours. Have all your books, studied the section on page 255, but he didn't find the answer to this question. I'm 72 years old, retired. Member of U.S Law Shield, NRA ANJRPC and CJRPC, which is Central Jersey Rifle and Pistol Club.

Evan Nappen 30:49

Well, Yuri, I appreciate your being a fan and trying to stay on top of all this. Let me give you some specific answers to your questions. First of all, in New Jersey for folks that have a carry permit, a handgun carry permit, if you are stopped, you have a duty to disclose whether in a motor vehicle or in public. You have to immediately tell the officer that you have a handgun, even if it's in a box, in the car, in a case in the car, or loaded on your person, even if it's unloaded and in the box, or loaded on your person. If you're a carry permit holder, there is a duty to inform the officer. Failure to do so is a crime in the Fourth Degree - up to 18 months in State Prison. You must also produce your carry permit, and if you fail to produce that, it's a misdemeanor, what Jersey calls a disorderly persons offense. Now that is for folks with a permit to carry that have a handgun in the car, either loaded or unloaded. They must disclose it to the police.

Evan Nappen 32:03

But if you do not have a carry permit, then you do not have a duty to disclose. Yes, that's actually true. So, as long as you don't have a carry permit, you do not have to tell the officer that you have a gun in the car or a gun in a box, or even a gun on your person, which you shouldn't have on your person. Not only do you not have a duty to disclose that, but also you have a Fifth Amendment right against self-incrimination to not disclose that. As far as other guns, as Yuri asked, about long arms - rifles, shotguns - no, you have no duty to disclose that you are transporting rifles or shotguns, that you're transporting firearms at all. As a matter of fact, you should say nothing about having guns in the car, guns being transported or where you're going. Because all that does is escalate the situation to seeing your gun, searching for your guns, and then charging you with possessing your gun so that you have the burden of proving your innocence, which is how New Jersey has structured their gun laws. So, absolutely do not disclose that you have a firearm of any type or any sort in the car unless you are a holder of a Permit To Carry. Because then, you're required to disclose that you have that handgun on you and to show your permit. That is New Jersey's law, in a nutshell. It makes a lot of sense, doesn't it, folks? Good grief.

Evan Nappen 33:37

Anyway, I appreciate your great questions, folks. And I want to thank you for being listeners. It's this kind of information, where it's so contradictory and so counterintuitive, and so just absurd and ridiculous, that I can straighten it out on the show. I'm happy to do it and it helps make all of us safer, and not become victims of New Jersey gun law. You'll hear the antis talk all the time about victims of gun violence, which is a load of crap because it's not gun violence. It's criminal violence. I happen to be

pro-gun violence. Just the right gun violence. In other words, if some bad guy is threatening myself or my family with deadly, deadly force, and I am justified in using my firearm, guess what I'm using on him? Gun violence. That's right. And I'm for it. That's when you need it. So, it's not about gun violence. But I'll tell you what you never hear about. You never hear about victims of gun laws, not victims of gun violence. Victims of gun laws. That's what Jersey does. It makes victims out of their gun laws. I don't want to see any of you become a victim. Same with our great sponsor, the Association of New Jersey Rifle & Pistol Clubs. Make sure you join. Go to anjrpc.org This is Evan Nappen reminding you that gun laws don't protect honest citizens from criminals. They protect criminals from honest citizens.

Speaker 3 35:28

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